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CARMICHAEL KEPT UNDER SCRUTINY

Nothing Indictable Found
Since Observation Began

By PHILIP POTTER

(Washington Bureau of The Sun)

Washington, Aug. 2 — The Justice Department has been keeping "watch" on Stokely Carmichael since "late last summer," but has not yet concluded that he has done anything indictable.

This was the word from a Justice Department spokesman today, as he released a letter to an unidentified congressman assuring him that appropriate action against Carmichael "will be taken whenever it appears that criminal prosecution would be warranted."

The State Department already has taken steps to revoke the

passport of Carmichael, who journeyed to Havana to participate as an honorary delegate in the first conference of the Latin American Solidarity Organization, which is designed to promote Castro communism in the Americas.

Carmichael, who got into Cuba through Prague, a channel often used by Latin American guerrillas traveling to and from Cuba, has scoffed about the prospective lifting of his passport.

At a news conference in Havana yesterday, from which United States newsmen were barred but which was covered by European newsmen, Carmichael said: "Since I was 15 years old I've not asked anyone's permission to go anywhere at any time for any reason. So I say to hell with the State Department."

He probably will not go near any United States consulate if and when he chooses to come back to the United States.

Carmichael was born in Trinidad, but was raised as a naturalized citizen in New York's Harlem and the Bronx.

Once the department decides to lift a passport, it normally instructs posts abroad where the holder might appear to stamp it "valid only for return to the United States."

ment's recovery of the passport is attempted here, either at the port of entry or by letter to the holder demanding its return.

Carmichael's derogatory remarks about the United States in Cuba; his calls for Negro guerrilla uprisings in United States cities, and his reported talk about President Johnson, Dean Rusk, Secretary of State, and Robert S. McNamara, Defense Secretary, as possible targets of assassination, have brought the Justice Department a new spate of demands for prosecution, a spokesman declared today.

Noting that the 25-year-old former head of the Student Non-violent Coordinating Committee and exponent of the black power movement had been watched by the department since late last

summer, the spokesman said he was keeping posted on his Cuba speeches.

He said that there have been two areas of principal Justice Department concern — possible violations of sedition statutes and of the Universal Military Training and Service Act which makes it a felony to "knowingly counsel, aid or abet another to refuse or evade registration or service in the armed forces."

The Justice Department had not placed Carmichael under formal surveillance but it had sent agents to hear him speak "once in a while last a matter of routine," the spokesman said, adding that the Negro leader appeared to have "calmed down" recently in his allusions to the selective service laws.

"Good May Come Of It"

If so, it may be because Carmichael changed his mind about deterring Negroes from service in Vietnam.

He is said to have remarked at his Havana news conference that "40 per cent of the troops in Vietnam are Negro, and some good may come of it because when they came back they will be trained to kill in the streets. . . . Green Berets, now in Latin America protecting military governments, may have to go back to the United States to protect their mothers, fathers and families."

The Justice Department spokesman said present plans are to continue to "watch" Carmichael "until he says something indictable," but he made it clear that a perusal of the laws had not yet convinced anyone in the department there was a case.

The department, he said, would not have devoted "this much time and energy" to Carmichael had it not been "concerned" over his performances, but to seek an indictment there had to be a "flagrant violation in a volatile situation" in view of the doctrines on "clear and present danger" laid down by the courts.

In this connection, the spokesman made public a department letter to an unidentified congressman who had inquired in 1966 as to whether Carmichael could not be indicted for violation of the draft act or sedition laws.

The reply stated in part:

"Of course, all statutes that proscribe uses of written and

spoken words as distinguished from acts, action and other activities, must be read in the light of the First Amendment which provides that Congress shall make no law abridging the freedom of speech.

"The judicial decisions indicate that counseling evasion of a required duty means attempting to persuade specific persons to evade such a duty, and we know of no decisions indicating that counsel evasion contemplates expressions of view and opinions made to a general audience.

"With respect to cases involving seditious utterances, the judicial decisions make it clear that before any form of speech can be suppressed, there must be convincing evidence that grave harm and danger to the nation would otherwise follow. Such a consideration led to the famous 'clear and present danger' doctrine first enunciated by the Supreme Court in the case of *Schenck v. United States*. . . .

"Through the years this doctrine has been imposed as a guide by the courts in determining the constitutionality of restrictions on the right of free speech and free press. Under this doctrine, freedom of speech and of the press is susceptible of restrictions only when necessary to prevent grave and immediate danger to interests which the Government may lawfully protect."

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